

**MINUTES
of the
FIRST MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE**

**July 22, 2013
State Capitol, Santa Fe**

The first meeting of the Transportation Infrastructure Revenue Subcommittee (TRANS) was called to order at 9:00 a.m. by Representative Roberto "Bobby" J. Gonzales, chair, on Monday, July 22, in Room 307 of the State Capitol.

Present

Rep. Roberto "Bobby" J. Gonzales, Chair
Rep. Ernest H. Chavez
Sen. Lee S. Cotter
Rep. Larry A. Larrañaga
Rep. Patricia A. Lundstrom
Rep. Jane E. Powdrell-Culbert
Sen. Clemente Sanchez

Absent

Sen. John Arthur Smith, Vice Chair
Sen. Timothy M. Keller
Sen. William H. Payne

Advisory Members

Sen. Carlos R. Cisneros
Rep. Nathan "Nate" Cote
Rep. Anna M. Crook
Rep. Edward C. Sandoval

Sen. Jacob R. Candelaria
Rep. Sharon Clahchischilliage
Sen. Ron Griggs
Sen. William E. Sharer

Guest Legislator

Rep. Tim D. Lewis

Staff

Pam Stokes, Legislative Council Service (LCS)
Amy Chavez-Romero, LCS
Renée Gregorio, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Monday, July 22

Representative Gonzales began the meeting by having all members, staff and those in the audience introduce themselves. He also expressed gratitude to the New Mexico Legislative Council for forming the TRANS, which has been desired by legislators for some time. He stressed that in the current economic climate, the state cannot depend on the federal government for funding at the same levels as in the past and the state needs to look at ways of increasing revenue for transportation needs.

History of Funding Levels for Transportation Infrastructure in the State

Tom Church, secretary-designate of transportation, stated that he has been with the Department of Transportation (DOT) for 20 years, first as an employee in finance and administration and then moving through the ranks. He proposed that he introduce DOT staff members who will be working on issues with the TRANS. But first he spoke of the DOT's revenues and expenditures as being flat, with only one-half to one percent growth. He specified that the DOT does not usually receive general funds but that there have been a few years that it has received general fund money for one-time improvements. He added that the State Road Fund (SRF) is made up of revenue from gas taxes, fuel taxes, weight distance taxes and registrations, and in each of these sources, there has not been any major increase in over 20 years. He asserted that the SRF has grown one-half to one percent per year and inflation has grown four percent per year. Mr. Church stated that the DOT has taken on significant debt on top of this; the DOT reduced the construction program by half to cover this debt. He ended by pointing out that New Mexico ranks fourth in the nation in a study done by the Reason Foundation in efficiency in highway construction, but New Mexico has a huge system and a small population to support that system.

Sources of Funding, Revenue and Expenditures

Clint Turner, chief economist at the DOT, began by speaking about SRF revenue, which showed a spike in fiscal year (FY) 2005 due to a major tax increase in FY 2003. He said that during the "biggest recession in modern history", revenues fell and have not recovered. He alluded to continued low growth and does not have the expectation of reaching the peak level again that was arrived at in FY 2007 of nearly \$400 million in revenues.

Mr. Turner then noted the four major SRF revenue sources in declining order of yield: gasoline tax yields the biggest revenue, then diesel or special fuels, then weight distance, then vehicle registrations. These four sources account for 92 percent of the SRF's revenue. He said that there has not been a rate change with the gasoline tax and that the overall revenue trend is either flat or slightly down. He then pointed out that now that gasoline prices are higher, with the advancement in fleet miles per gallon in the passenger car fleet, revenues will be affected. Also, there has been a 38 percent rate increase in weight distance tax revenue, a significant increase in vehicle registrations as of 2005 and some growth in diesel tax revenue, which is nationally driven from travel on Interstates 10 and 40. (See the handout for details of all funding sources and where the funding goes, which is not always to the SRF.)

At this point, TRANS members asked a few questions, which raised the following points.

- New Mexico's vehicle registration is low among the 50 states, even with recent increases;
- Arizona structures its registration fees more like a property tax; New Mexico fees are based on the weight and age of the vehicle; and
- New Mexico is the seventh lowest state in gasoline tax; not all states impose weight distance tax.

Marcos Trujillo, bond and debt service manager at the Financial Control Bureau of the DOT, set forth how state revenue integrates with federal funding. He noted that in 2004, a tax increase occurred that netted additional revenue to help fund a new bond program as well as to assist in maintenance needs. Alongside this increase, diesel and weight distance taxes and vehicle registrations increased. The DOT also worked at closing out federal projects during FY 2010-2012, which caused an increase in federal revenue reimbursement.

In reviewing expenditures over time, Mr. Trujillo stated that the DOT has continued to use limited resources for its roads, as shown by the contractual services expenditures. Over the past 16 years, the DOT's expenditures have been consistent while revenues have remained flat. The DOT's bond program began in 1998, when the department began issuing debt for state highway projects. New Mexico was one of the first states to issue a grant anticipation revenue bond, which pledged solely federal revenue, but none of these bonds have been issued since 2001, Mr. Trujillo noted. Two bonds were issued for the Waste Isolation Pilot Plant (WIPP), which bonds were used to enhance the truck corridor and have been defeased.

In a chart showing annual debt service by revenue source, Mr. Trujillo pointed out the SRF blue line, which showed that the SRF had been contributing \$40 million for several consecutive fiscal years, which contribution was reduced by \$10 million in FY 2011. In FY 2025 and FY 2026, there is a huge spike in debt service for the SRF. In addition, the debt service for the New Mexico Rail Runner is paid by the SRF; no federal money is used for these bonds.

TRANS members asked some questions at this juncture. The issues discussed are included in the following:

- the DOT contends that it is not worth restructuring bonds because of the cost of penalties in doing so;
- last year, the DOT refinanced, reducing the interest rate from five percent down to one percent, which netted about \$30 million;
- the counties are paying gross receipts tax for the Rail Runner; local governments do not carry this debt;
- the DOT negotiated with the Burlington Northern Santa Fe Railway (BNSF) to get reimbursed for the track from Lamy to the Colorado border, which was returned to the BNSF; the BNSF refunded \$5 million in earnest money to New Mexico;

- the DOT has an agreement with the New Mexico Finance Authority (NMFA) to issue and maintain all of DOT's debt, and in 2013, the DOT renegotiated with the NMFA, so that the department never pays more than \$8,000 per year for servicing bonds; the DOT also hired a bond counsel and a financial adviser, which netted a savings of \$2.4 million by not having to pay the NMFA's fees; and
- the annual liability for the New Mexico Rail Runner will increase significantly in the next budget cycle, and the insurance will increase from about \$8 million to \$12 million per year; the DOT will provide the TRANS with details on these payments.

Mr. Trujillo indicated that the authorization of \$1.585 billion in bonds increased the debt service between 2003 and 2004. The DOT issued \$1.35 billion in bonds for construction projects and refunded bonds amounting to \$437.9 million, which created capacity for new issuances. Summarizing how the DOT has reduced overall costs, Mr. Trujillo recapped actions that the department has taken, including two cases of refinancing, which saved approximately \$55 million, and renegotiating the escrow agreement with the BNSF for the Rail Runner, which replaces \$50.4 million in taxable bonds with a line of credit, reducing annual cost and potentially saving the DOT approximately \$19 million over the life of the bond program.

TRANS members then engaged in several questions, leading to the following points and requests:

- Rail Runner ridership is consistent and growing but does not justify the cost, as in most public transportation venues; service levels are rated high; operating costs are at \$25 million per year for the commuter service; for the initial purchase and liability of the track, right-of-way acquisition, engines and stock for the railroad, the state has incurred \$40 million in debt over 20 years;
- the legislature increased the SRF by \$40 million for maintenance, which involves the sale of synthetic variable rate bonds for which the DOT pays insurance to keep interest rates set, but the rates have dropped three percent since that decision;
- that another method of tax collection for road maintenance should be looked at;
- a request for details on how the SRF has been eroded over time;
- about \$120 million goes into the general fund now from the excise tax on new vehicles;
- a request for a detailed breakdown on how and where federal funds are spent;
- a request for a cost breakdown and number of miles on state road maintenance;
- \$4 million is put into the SRF from driver's license fees;
- the differing years for renewal of driver's licenses creates an up-and-down pattern in revenue, but it is not a major force;
- the DOT is trying to develop current shovel-ready projects so that when funding becomes available, projects will be there;
- WIPP funding ended in 2012, but now the maintenance of four highway lanes costs \$30 million per year to meet the safety standards for hauling hazardous waste, and this needs to be factored into the federal contribution;

- in Carlsbad's efforts to establish the above-ground waste facility, there will be more traffic as a result of that expansion, with the accompanying wear and tear on the roads from the trucking of this material and a subsequent need for the federal government to direct funding to the state;
- a request for operating costs for the Rail Runner; a rough estimate of the revenue collected is about \$22 million per year, and the costs for operation and infrastructure are about \$64 million per year;
- the majority of the special fuels tax goes into the SRF;
- the DOT receives a mix of federal funding, including Federal Highway Administration (FHWA) funding, Federal Aviation Administration funding, National Traffic Safety Administration funding and Federal Transit Administration (FTA) funding;
- there have been two years in the past seven in which the DOT received severance tax funding;
- if federal funding is reduced, New Mexico needs a plan; and
- there is a need to look at what is proactive in terms of liability expenses per highway district so that the liability does not become an overwhelming part of the budget.

Statewide Transportation Improvement Plan (STIP) and the Long-Range Plan

Mike Sandoval, director of the Transportation Planning and Safety Division at the DOT, discussed the planning structure, which is made up of the planning processes of the DOT, metropolitan planning organizations (MPOs) and regional transportation planning organizations (RTPOs). He noted that the next MPO is likely to be in Roswell, based on the most recent census data, and that Los Lunas chose not to be its own MPO this year and instead joined forces with the mid-region MPO. The DOT provides funding to MPOs and RTPOs for planning by reviewing its formula and agreeing to funding levels. He added that the mid-region MPO receives about \$800,000 for planning. In contrast, El Paso, which is the smallest MPO, receives \$50,000. For the RTPOs, the DOT provides \$70,000 per year, which is likely to increase a bit. To receive funding, the MPOs and RTPOs first have to put a plan together for how they will spend their funds in the next fiscal year. Several requirements need to be met by the planning organizations, including federal requirements, participation with the DOT and environmental certifications; the DOT assists organizations with meeting these requirements.

Mr. Sandoval then spoke about the statewide long-range plan, which is being revised to have an end date of 2040. All MPOs and RTPOs will be included in the state plan. The plan is based on three factors: economy, water availability and vehicle technology. He remarked that gasoline taxes are a big part of the DOT's revenue. Also, cars that are more fuel efficient provide less revenue for the DOT, and the shift from diesel to natural gas would lessen revenue received from the diesel tax. Mr. Sandoval commented that statewide planning is often based on differing scenarios, such as if one of the military bases closes. Also involved is estimating revenue, considering transportation alternatives and identifying short-, medium- and long-term goals in relation to transportation needs, road maintenance and the building of public transportation.

The STIP includes short-term planning, which provides a lot of detail as to what will happen over the next four years. It contains all federally funded and regionally significant projects for which funding levels are determined by federal authorization. The STIP includes all projects from the transportation improvement plans from all of the MPOs. The amount appropriated is what is authorized by Congress for transportation purposes; there is then a ratio determined for the amount of appropriated funds that can be obligated within any fiscal year, ensuring that spending levels are balanced with the income into the federal Highway Trust Fund.

At this juncture, Mr. Church mentioned that the DOT is often asked, "Why can't you do my road?". He clarified that the entire regional and metropolitan planning process is composed of regional and county personnel who develop plans that then feed into the state plan. The DOT works with highway districts, MPOs and RTPOs to develop STIP long-range plans, and the department is fiscally constrained. Anything federally funded or regionally significant is in the plan, which includes commuter-related projects that affect several regions. Because the funding levels are established by the federal budget bill, the state does not have the flexibility to change projects that are planned.

Mr. Church also expressed consternation over the reduction of federal funding by one-third, a significant concern for the state. He explained that what happens during the processing of some recession bills is that the appropriation is the necessary amount but differs from the amount the state could receive because of the obligation limit. (See the handout for an example of the obligation limit in effect.)

TRANS members jumped in with some questions at this point, which points are summarized in the following:

- the STIP is a four-year program that is renewed every two years and that operates on a quarterly cycle to allow amendments to appropriations either to increase funding or to add in emergency projects; the program is still fiscally constrained, so if a project is added in, another has to be dropped or reduced;
- the obligation limit is set at 90 percent for a fiscal year, so the state can obligate only that percentage, but the remaining 10 percent is still appropriated and can be spent in the next fiscal year as long as the DOT does not go over that year's obligation limit;
- for a \$90 million program, the DOT prepares \$20 million to \$30 million in projects to keep the plan steady, with projects ready for the following year; and
- for the STIP program, the DOT has the authority to spend \$100 million from the designated categories and needs to dedicate a certain amount in each category; in future years, the DOT has the authority to spend in these categories, which leaves 10 percent "on the table" for future spending.

Elias Archuleta, acting chief engineer at the DOT, then spoke of details of the STIP projects, stating that for each phase or project in the STIP program, it is required that there be a project description, an estimated total project cost, the amount of federal funds to be obligated by

fiscal year and the chief administering agency for the project. There are a variety of required types of projects under the STIP, which projects are all funded under 23 U.S.C. (See the handout for all these federal programs.) These projects also include federal categories funded by the FTA and projects that are regionally significant, such as the Paseo del Norte project. Such regionally significant projects include major roadways; projects requiring action by the FHWA or FTA; and projects adding capacity to existing roadways. In terms of programming for projects in metropolitan areas, the MPO, in cooperation with the state and public transportation operators, programs projects into the STIP. He added that the DOT does not differentiate between large and small MPOs in this programming.

Mr. Archuleta next discussed program management issues, reporting that the STIP covers immediate needs based on condition and capacity for a four-year period. The STIP is reevaluated and updated every two years as conditions change. He emphasized that the DOT tries to design \$20 million to \$25 million ahead in each fiscal year because it can get an additional \$10 million to \$20 million in funding by having projects ready. He said that the DOT received \$18 million extra in funding two years ago because of this method of operating. Mr. Church added that the DOT's focus has been to maximize the federal obligation and that the department has closed old projects to release obligation authority, which has yielded \$270 million.

In conclusion, Mr. Archuleta made a few points: the lead agency is responsible for carrying out projects to completion and must comply with federal regulations and requirements; and FHWA funds are paid on a reimbursement basis, which is important for local entities as they may or may not be able to put money up front for projects, which can cause issues with project delivery.

TRANS members asked questions of the presenters, leading to the following points:

- the STIP is based on condition and capacity, and because jobs cannot be created without good infrastructure, the DOT could consider adding economic development and job creation to its criteria;
- a suggestion to have the DOT compile a list of regionally significant criteria, including economic development criteria, and to ask for a joint meeting with the Jobs Council;
- each MPO receives approximately \$200,000 for planning purposes; the pot of money for MPOs stays the same, and as more MPOs are created, the same pot of money will have to be distributed, which is one reason that Albuquerque and Los Lunas are sticking together as one MPO;
- the Transportation Alternatives Program is new under the Moving Ahead for Progress in the 21st Century Act (MAP-21) and is a cost-reimbursement program that combines several other previous programs; under it, money is set aside for recreational trails as a statewide program administered by the Energy, Minerals and Natural Resources Department;

- the Cable Median Barrier Program is funded out of the federal Highway Safety Improvement Program, under which there is a statewide selection process for local projects, and replacing outdated barriers along the interstate system is a part of this program;
- the DOT is doing well in addressing deficient bridges by consolidating this funding into the FHWA Historic Preservation Program;
- MAP-21 will affect budget and apportionment for only two years, and the bottom-line apportionment for New Mexico remains the same;
- there are only a few Governor Richardson's Investment Partnership (GRIP) projects remaining, some of which are in an unfunded category and some of which are in process; the DOT will provide details;
- in general, GRIP legislation has authorized \$1.58 billion in bonding authority with a list of 42 projects; the DOT engaged with the NMFA and issued bonds as projects became ready; although there is about \$285 million remaining in authorizations for bonds, there is an issue as to whether the state can actually pay back these bonds;
- the unfunded GRIP projects are being addressed through STIP; the DOT has reallocated money through closing projects; the legislature could look at the project list and determine which projects to keep;
- water availability is a factor in long-range planning because of its relationship to the economic health of a community and this is related to estimating budgets and revenue;
- tax increases are not in the interest of the executive branch; other ways need to be found to mitigate lack of funds, such as public-private partnerships and making existing revenue streams more productive; and
- the state's liability costs are increasing due to the state being held accountable for accidents on its roads because of lack of maintenance.

Work Plan Review

Representative Gonzales gave TRANS members an opportunity to comment on the work plan, and members suggested that TRANS:

- look to tap into other areas for highway maintenance and repair, such as public school capital outlay;
- look at revamping the state's tax structure and method of tax collection;
- review other states' initiatives that support transportation funding;
- study the impact of industries, such as oil and gas and URENCO USA, on the state's roads;
- hold a joint meeting with the Jobs Council toward the end of the interim;
- have a work session with the State Transportation Commission (STC), as it is the commission that approves the STIP projects and budgets and directs staff and is a different branch of government that needs to be included; and
- consider having staff make a presentation regarding statewide capital outlay and projects of regional significance and why transportation projects are not included.

Next, Representative Gonzales asked audience members for input. Key remarks include the following:

- it is not in local communities' interest to compete with schools for funding but rather to create a transportation funding category;
- transportation issues should not be political, as these projects are important to the entire state; and
- the state needs to treat transportation infrastructure funding as an enterprise fund; it cannot borrow any more without finding a new revenue stream.

Representative Gonzales then closed the meeting by stating that it is critical that New Mexico help itself. He challenged everyone to think creatively. He emphasized that renewable energy is right at the state's fingertips and that what is needed is to find new revenue sources, to be innovative and to use the national laboratories as resources for research. He stressed that he wants TRANS to be strong and that he would extend invitations to the STC, to Native Americans and to the executive branch so that the facts can be looked at collaboratively and innovative solutions found.

Adjournment

There being no further business before the subcommittee, the meeting adjourned at 12:35 p.m.